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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,590	07/23/2003	Dirk Heinrich	233812US0	7530
22850	7590	02/05/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
PADGETT, MARIANNE L				
ART UNIT		PAPER NUMBER		
1792				
NOTIFICATION DATE		DELIVERY MODE		
02/05/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* DIRK HEINRICH and HEINZ SCHOLTEN

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Application 10/624,590  
Technology Center 1700

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Mailed: February 5, 2009

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Before, MARIA VIGNONE, *Supervisory Trial Clerk*.

VIGNONE, *Supervisory Trial Clerk*.

**ORDER RETURNING UNDOCKETED APPEAL**

This application was electronically received by the Board of Patent Appeals and Interferences on January 23, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**EXAMINER'S ANSWER, GROUNDS OF REJECTION**

The Examiner's Answer, mailed April 30, 2008, statement of the Grounds of Rejection for claims rejected under 35 U.S.C. 112 are not consistent with the Final Rejection, mailed June 5, 2007, Statement of the Grounds of Rejection for claims rejected under 35 U.S.C. 112. Clarification is required because there is no clear statement that any rejection of claims was withdrawn by the Examiner. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

Specifically, the Examiner's Answer sets forth the "Grounds Not On Review" as claims 1-7, 10-11, 15-17, 19 and 22 as being rejected under 35 U.S.C. 112, first paragraph, and claims 1-7, 10-11, 15-17, 19 and 22 as being rejected under 35 U.S.C. 112, second paragraph; whereas either all rejections should be on review or the rejections must be withdrawn. Correction is required.

**CONCLUSION**

Accordingly, it is **ORDERED** that the application be returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed May 14, 2008;
- 2) to generate a corrected Examiner's Answer setting forth the correct Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required; and
- 3) such further action as may be required.

Application 10/624,590

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

MTV

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